

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NICHOLAS DERIVERA, JACOB
DERIVERA, and GRACIE HERNANDEZ, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MISCHIEF GAIL MORRISON,

Respondent-Appellant,

and

NICHOLAS DERIVERA and AARON
HERNANDEZ,

Respondents.

UNPUBLISHED

July 14, 2005

No. 258385

Kent Circuit Court

Family Division

LC No. 03-005002-NA

Before: Neff, P.J., and White and Talbot, JJ.

PER CURIAM.

Respondent-Appellant Mischief Gail Morrison appeals as of right from the order terminating her parental rights under MCL 712A.19b(3)(c)(i), (g), and (j).¹ Respondent-Appellant argues that the lower court erred in finding clear and convincing evidence to support these statutory grounds. We affirm.

On appeal from termination of parental rights proceedings, this Court reviews the trial court's findings under the clearly erroneous standard. MCR 3.977(J); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). To be clearly erroneous,

¹ Respondents Nicholas DeRivera and Aaron Hernandez did not appeal the termination of their parental rights.

a decision must be more than maybe or probably wrong. *Sours, supra*. Further, regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). In order to terminate parental rights, at least one of the conditions found in MCL 712A.19b must be proven by clear and convincing evidence. *Sours, supra* at 632. Once a statutory ground for termination of parental rights is established, the court must terminate parental rights unless it finds termination clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 350; 612 NW2d 407 (2000).

In this most difficult case, where respondent-appellant clearly loves her children, and strives to give them the necessary care, there is a strong bond between respondent-appellant and the children, and respondent-appellant has made considerable progress in addressing the issues that brought the children under the jurisdiction of the court, we nevertheless must affirm the trial court's determination that, without regard to intent, respondent-appellant failed to provide proper care or custody for the children and there is no reasonable expectation that respondent-appellant will be able to do so within a reasonable time considering the children's ages. MCL 712A.19b(3)(g).

After the children had been in care fifteen months and respondent-appellant was provided extensive services, she was nonetheless unable to assume care and responsibility for her three children due to her mental instability. Clear and convincing evidence supported the trial court's decision on MCL 712A.19b(3)(g). Further, given the testimony regarding the need for stability, we conclude that the evidence failed to show that termination was not in the children's best interests. *Trejo, supra* at 350; MCL 712A.19b(5).

Affirmed.

/s/ Janet T. Neff
/s/ Helene N. White
/s/ Michael J. Talbot